REMARKS

Claims 1 - 20 were pending in the application. Claims 1, 3, 7, 8, 14, 15, and 17 have been amended. Claims 21-30 have been added. Accordingly, claims 1-30 are now pending in the application.

Support for amended claims 1, 7, and 15 may be found, for example, on page 6, lines 15-20 of the disclosure. Support for amended claims 8 and 17 and new claim 24 may be found, for example, on page 5, lines 24-26. Support for new claim 21 may be found, for example, on page 6, lines 20-23. Support for new claim 22 may be found, for example, on page 5, lines 26-29. Support for new claims 23 and 30 may be found, for example, on page 5, lines 22-24. Support for claims 25 and 26 may be found, for example, on page 2 line 28 - page 3 line 1. Support for new claim 27 may be found, for example, on page 3, lines 1-11, page 5, lines 10-14, page 6, lines 5-18, and page 8, lines 16-21. Support for new claim 28 may be found, for example, on page 5, lines 1-4. Support for new claim 29 may be found, for example, on page 5, lines 14-16.

Claims 1-6, 8-9, 12-13, and 15-20 were rejected under 35 U.S.C. 102(e) as being anticipated by Chih-Lui I et al. (U.S. Patent # 6,088,335). Also, claims 7 and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chih-Lui I in view of Bushmitch et al. (U.S. Patent # 6,275,471). Additionally, claims 10 and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chih-Lui I in view of Bushmitch and further in view of Chambers et al. (U.S. Patent # 5,884,052).

Applicant respectfully requests examination of new claims 21-30.

Applicant respectfully submits that Chih-Lui I and Bushmitch, whether alone or combined, fail to teach or suggest "wherein said first device and said second device are configured to cause an error recovery mechanism to be initiated in response to detecting that a retry limit corresponding to said first request is exceeded" as recited in claim 1.

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The Examiner contends that this feature is taught in col. 8 lines 20-30 of Chih-Lui I. Applicant submits that col. 8 lines 20-30 of Chih-Lui I teaches that when a mobile receives a delay, it initiates such delay before starting its transmission. The Examiner also contends that this feature is taught in col. 5 line 50 - col. 6 line 14 and in col. 7 lines 7-25 of Bushmitch. Applicant submits that Bushmitch teaches "This reconstruction process is only bound by an Overall_Timeout parameter being passed to the application's protocol communication function, such that as long as the Overall_Timeout has not expired, the Reliable protocol will attempt to request retransmission of lost or corrupt data packets." (Bushmitch, Column 5, Lines 39-44) Bushmitch also teaches "When a sender detects an "out of sequence" condition or fails to receive the last data packet, there is a programmable timeout variable (t_{out}) which specifies when a NACK message is to be sent to the sender" and then retransmission takes place. (Bushmitch, Column 5 line 67 - Column 6 Line 14) However, Chih-Lui I and Bushmitch, whether alone or combined, do not teach or suggest "said first device and said second device are configured to cause an **error recovery mechanism** to be initiated in response to detecting that **a retry limit corresponding to said first request** is **exceeded**", as recited in claim 1.

In accordance, claim 1 is believed to patentably distinguish over Chih-Lui I and Bushmitch, whether alone or combined. Claims 2-7 and 21-29 depend on claim 1 and are therefore believed to patentably distinguish over Chih-Lui I and Bushmitch, whether alone or combined, for at least the reasons given above.

In addition, with regards to claim 4, Applicant respectfully submits that Chih-Lui I fails to teach or suggest "wherein said delay value corresponds to a first value in response to said temporarily unavailable condition corresponding to a first type of condition and wherein said delay value corresponds to a second value in response to said temporarily unavailable condition corresponding to a second type of condition." The Examiner contends that this feature is taught in col. 9 line 45 - col. 10 line 24 of Chih-Lui I (i.e., "basic rate" and "high rate"). Chih-Lui I teaches that mobiles are permitted to access base stations at a basic rate or a high rate. (Chih-Lui I, Column 9 Lines 52-60 and Column 10 Lines 5-12) However, Chih-Lui I fails to teach or suggest the

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features of claim 4 highlighted above. In accordance, claim 4 is believed to patentably distinguish over Chih-Lui I.

Also, Applicant respectfully submits that Chih-Lui I and Bushmitch, whether alone or combined, fail to teach or suggest "initiating **an error recovery mechanism** corresponding to said response in response to determining that **a retry limit** corresponding to said **first request** has been **exceeded**" as recited in claim 15. Independent claim 15 recites features similar to those highlighted above with regard to independent claim 1 and are therefore believed to patentably distinguish over Chih-Lui I and Bushmitch, whether alone or combined, for at least the reasons given in the above paragraphs discussing claim 1. Claims 16-20 depend on claim 15 and are therefore believed to patentably distinguish over Chih-Lui I and Bushmitch, whether alone or combined, for the same reasons.

Additionally, Applicant respectfully submits that Chih-Lui I and Bushmitch, whether alone or combined, fail to teach or suggest "wherein said second device is configured **to store historical data** corresponding to previous temporarily unavailable conditions, wherein said second device is configured to determine said delay value based on the **stored historical data**" as recited in claim 8. In accordance, claim 8 is believed to patentably distinguish over Chih-Lui I and Bushmitch, whether alone or combined. Claims 9 and 12-14 depend on claim 8 and are therefore believed to patentably distinguish over Chih-Lui I and Bushmitch, whether alone or combined, for at least the same reasons. Also, Claims 10 and 11 depend on claim 8 and are therefore believed to patentably distinguish over Chih-Lui I, Bushmitch, and Chambers, whether alone or combined, for at least the same reasons.

Furthermore, Applicant respectfully submits that Chih-Lui I and Bushmitch, whether alone or combined, fail to teach or suggest "wherein a delay value is associated with **each of the plurality of temporarily unavailable conditions** and each delay value is a **programmable value**; wherein said second device is configured to convey a response to said first device including the delay value associated with a detected one of the plurality of temporarily unavailable conditions at the second

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device" as recited in claim 30. In accordance, claim 30 is believed to patentably distinguish over Chih-Lui I and Bushmitch, whether alone or combined.

CONCLUSION

In light of the foregoing amendments and remarks, Applicant submits that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. If a phone interview would speed allowance of any pending claims, such is requested at the Examiner's convenience.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5181-38400/BNK.

Respectfully submitted,

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